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**Agricultural
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◊ **Warehouse
Division**

**January 1984
(as amended)**

U.S. Warehouse Act, as Amended

Regulations for Cotton Warehouses

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UNITED STATES DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

(Reprinted from Code of Federal Regulations, Revised as of January 1, 1986)

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C— WAREHOUSE REGULATIONS

PART 735—COTTON WAREHOUSES

DEFINITIONS

- Sec.
735.1 Meaning of words.
735.2 Terms defined.

WAREHOUSE LICENSES

- 735.3 Application forms.
735.3a All facilities to be licensed or exempted.
735.4 Grounds for not issuing a license.
735.5 Net assets required.
735.6 License shall be posted.
735.7 Suspension or revocation of warehouse licenses.
735.8 Return of suspended or revoked warehouse license.
735.9 Lost or destroyed warehouse license.
735.10 Unlicensed warehousemen must not represent themselves as licensed.

WAREHOUSE BONDS

- 735.11 Bond required; time of filing.
735.12 Amount of bond; additional amounts.
735.13 Amendment to license.
735.14 New bond required each year.
735.15 Approval of bond.

WAREHOUSE RECEIPTS

- 735.16 Form.
735.17 Copies of receipts.
735.18 Lost or destroyed receipts; bond.
735.19 Printing of receipts.
735.20 Partial delivery of cotton.
735.21 Return of receipts before delivery of cotton.
735.22 Omission of grade; no compulsion by warehouseman.

DUTIES OF LICENSED WAREHOUSEMAN

- 735.23 Insurance; requirements.
735.24 Premiums; inspections; reports.
735.25 Warehouseman to collect and pay over insurance.
735.26 Care of cotton in licensed warehouse.
735.27 Care of other cotton and other commodities.
735.28 Records to be kept in safe place.
735.29 Warehouse charges.
735.30 Business hours.
735.31 Numbered tags to be attached to bales.
735.32 Arrangement of stored cotton.
735.33 System of accounts.
735.34 Reports.
735.35 Canceled receipts; auditing.
735.36 Copies of reports to be kept.
735.37 Inspections and examinations of warehouses.
735.38 Weighing of cotton; weighing apparatus.
735.39 Loose cotton.
735.40 Excess storage.
735.41 Removal of cotton from storage.
735.42 Storage of wet and fire-damaged cotton.
735.43 Cotton handling; storage; injuries.
735.44 Fire loss to be reported by wire.
735.45 Signatures on receipts to be filed with Department.
735.46 Signs on field warehouses.
735.47 Certificates to be filed with warehouseman.
735.48 Drawing of samples.
735.49 Samples; drawing and marking; how.

FEES

- 735.50 License fees.
735.51 Warehouse inspection fee.
735.52 Advance deposit.
735.53 Return of excess deposit.

LICENSED CLASSIFIERS AND LICENSED WEIGHERS

- 735.54 Sampler's, classifier's, and weigher's applications.
- 735.55 Examination of applicant.
- 735.56 Posting of license.
- 735.57 Duties of sampler, classifier, and weigher.
- 735.58 Class certificates; form.
- 735.59 Weight certificates; form.
- 735.60 Combined class and weight certificates.
- 735.61 Copies of certificates to be kept.
- 735.62 Licensees to permit and assist in inspection.
- 735.63 Reports.
- 735.64 Licenses; suspension or revocation.
- 735.65 Suspended or revoked licenses; return; termination of license.
- 735.66 Lost or destroyed licenses.
- 735.67 Unlicensed classifiers and weighers.

COTTON CLASSIFICATION

- 735.68 Statement of class.
- 735.69 Official cotton standards of the United States.
- 735.70 Defective cotton; designation; terms defined.
- 735.71 Class based on inspection and sample.
- 735.72 Samples.
- 735.73 Lower grade (of two samples) to determine classification.
- 735.74 Access to official cotton standards.

COTTON APPEALS

- 735.75 Who may appeal.
- 735.76 Complaint.
- 735.77 Contents of complaint.
- 735.78 Proof of agent's authority.
- 735.79 Determination of appeals; samples.
- 735.80 Dismissal of appeals.
- 735.81 Cotton appeal certificate.
- 735.82 Expenses paid by complainant.
- 735.83 Advance deposit by complainant.
- 735.84 New warehouse receipt.
- 735.85 Disposition of samples.

MISCELLANEOUS

- 735.86 Bonds required.
- 735.87 Publications.
- 735.88 Information of violations.
- 735.89 Procedure in hearings.
- 735.90 One document and one license to cover several products.
- 735.91 Assets and bond; combination warehouses.
- 735.92 Amendments.

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DEFINITIONS

§ 735.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 735.2 Terms defined.

For the purpose of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The act.* The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273), as amended.

(b) *Person.* An individual, corporation, partnership, or two or more persons having a joint or common interest.

(c) *Secretary.* The Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Administrator.* The Administrator of the Service or any other officer or employee of the Service to whom authority has heretofore lawfully been delegated, or may hereafter lawfully be delegated, to act in his stead.

(e) *Designated representative.* The Administrator.

(f) *Regulations.* Rules and regulations made under the act by the Secretary.

(g) *Department.* The United States Department of Agriculture.

(h) *Service.* The Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(i) *Linters.* As far as applicable the regulations in this part shall include linters.

(j) *Warehouse.* Any building, structure, or other protected inclosure in which cotton is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which cotton is or may be stored.

(k) *Warehouseman.* A person lawfully engaged in the business of storing cotton.

(l) *License*. A license issued under the act by the Secretary.

(m) *Licensed warehouseman*. A warehouseman licensed as such under the act.

(n) *Licensed warehouse*. A warehouse for the conduct of which a license has been issued.

(o) *Licensed warehouseman's bond*. A bond required to be given under the act by a licensed warehouseman.

(p) *Licensed classifier*. A person licensed under the act to classify according to grade or otherwise and certificate the grade or other class of cotton.

(q) *Licensed weigher*. A person licensed under the act to weigh and certificate the weight of cotton.

(r) *Cotton examiner*. An officer of the Department of Agriculture designated by the Administrator for the purpose of hearing cotton appeals under §§ 735.75 through 735.85.

(s) *Receipt*. A warehouse receipt.

(t) *Bale*. A bale or other package.

(u) *State*. A State, Territory, or district of the United States.

(v) *Licensed sampler*. A person, employed by a licensed warehouseman, licensed under the act to draw samples from cotton stored in the licensed warehouse at which such person is employed.

(w) *Board of Cotton Examiners*. A board of cotton examiners properly qualified and designated as such under the regulations (Part 28 of this chapter) under the United States Cotton Standards Act.

[29 FR 15720, Nov. 24, 1964. Redesignated and amended at 50 FR 1814, Jan. 14, 1985]

WAREHOUSE LICENSES

§ 735.3 Application forms.

Applications for licenses under sections 4 and 9 of the act and for amendments of licenses under section 5 of the act shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant

shall at any time furnish such additional information as the Secretary or the Administrator shall find to be necessary to the consideration of his application.

§ 735.3a All facilities to be licensed or exempted.

All facilities within the same city or town used for the storage of cotton by an applicant for a warehouse license must qualify for a license and be licensed under the act if the applicant is to be licensed to operate as a cotton warehouseman in such city or town, unless the facilities which are not to be covered by a license are exempted by the Secretary or his designated representative upon a finding that, due to the exercise of adequate controls by some independent agency over the operation of nonfederally licensed facilities, there would be no likelihood of interchange or substitution of cotton stored in such facilities with cotton stored in the federally licensed facilities. If all such facilities do not qualify for a license or for an exemption under this section, the applicant shall not be licensed under the act as a cotton warehouseman in the city or town in which the facilities in question are located. Each applicant for a warehouse license must apply for a license covering all facilities operated by him for the storage of cotton within the same city or town or for exemption as provided in this section. If a licensed cotton warehouseman acquires any additional cotton storage facilities within the same city or town in which his licensed warehouse is located, he shall file promptly an application for a license or an exemption of the additional facilities. No cotton storage facility acquired by a licensed cotton warehouseman, subsequent to the issuance of his license, in the same city or town as his licensed facilities, shall be used for the storage of cotton until it qualifies for license and is licensed or is exempted as provided in this section. If any one of the licensed cotton storage facilities operated by a warehouseman in the same city or town becomes ineligible for a license at any time for any reason, it shall not thereafter be used

for the storage of cotton until the condition making it ineligible is removed or an exemption is granted as provided in this section. The use for the storage of cotton by a licensed warehouseman of a facility which is in the same city or town as his licensed facilities and is neither licensed nor exempted, or other violation of the provisions of this section, shall be cause for suspension or revocation of any license issued to the warehouseman for the storage of cotton.

§ 735.4 Grounds for not issuing a license.

A license for the conduct of a warehouse, or any amendment to a license, under the regulations in this part, shall not be issued if it is found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of cotton; that the warehouseman does not possess a good reputation, or does not have a net worth of at least \$10,000.00, or is incompetent to conduct such warehouse in accordance with the act and the regulations in this part; or that there is any other sufficient reason within the intent of the act for not issuing such license. If all the facilities operated for the storage of cotton by the applicant within the same city or town are not to be licensed under the act, the applicant shall not be licensed as a cotton warehouseman with respect to any of such facilities, unless an exemption of the facilities which are not to be licensed is granted as provided in § 735.3a.

§ 735.5 Net assets required.

(a) Each warehouseman conducting a warehouse licensed, or for which application for license has been made, under the regulations in this part, shall have and maintain, above all exemptions and liabilities, net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, equal to at least \$5.00 per bale for the maximum number of bales that the warehouse will accommodate when stored in the manner customary to the warehouse as determined by the Administrator: *Provided*, That the amount of such net assets

shall not be less than \$10,000.00, and need not be more than \$100,000.00: *And provided further*, That any deficiency in the net assets required above the \$10,000.00 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 735.12(b). In case such a warehouseman has applied for licenses to conduct two or more warehouses in the same state, and his total assets are subject to the liabilities of each warehouse, such warehouses shall be deemed to be one warehouse for the purposes of determining the net assets required under this section. In determining total net assets, credit may be given for insurable property such as buildings, machinery, equipment, and merchandise inventory, only to the extent that such property is protected by insurance against loss or damage by fire. Such insurance shall be in the form of lawful policies issued by one or more insurance companies authorized to do such business and subject to service of process in suits brought in the state in which the warehouse is located. For the purposes of this section only, capital stock as such shall not be considered a liability.

(b) In case a state agency, licensed or applying for a license as provided in section 9 of the act, has funds of not less than \$500,000.00 guaranteeing the performance of obligations of the agency as a warehouseman, such funds shall be considered sufficient to meet the maximum net asset requirements of this section.

§ 735.6 License shall be posted.

Immediately upon receipt of his license or of any modification or extension thereof under the act, the warehouseman shall post the same, and thereafter, except as otherwise provided in the regulations in this part, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by the warehouseman are delivered to depositors.

§ 735.7 Suspension or revocation of warehouse licenses.

Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or cancel the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a warehouseman when such warehouseman:

(a) Does not have a net worth of at least \$10,000.00;

(b) Has parted, in whole or in part, with his control over the licensed warehouse;

(c) Is in process of dissolution or has been dissolved;

(d) Has ceased to conduct such licensed warehouse;

(e) Has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse;

(f) Has made unreasonable or exorbitant charges for services rendered;

(g) Is operating in the same city or town in which his licensed warehouse facilities are located, any facility for storage of cotton which is not covered by a license or an exemption as provided in § 735.3a; or

(h) Has in any other manner violated or failed to comply with any provision of the act or the regulations in this part. Whenever any of the conditions mentioned in paragraphs (a) through (h) of this section shall come into existence, it shall be the duty of the warehouseman to notify the Administrator immediately of the existing condition. Before a license is revoked or suspended (other than temporarily pending investigation) for any violation of, or failure to comply with,

any provision of the act or of the regulations in this part, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 735.89.

§ 735.8 Return of suspended or revoked warehouse license.

In case a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued, and it shall be posted as prescribed in § 735.6; or in the discretion of the Administrator a new license may be issued.

§ 735.9 Lost or destroyed warehouse license.

Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

§ 735.10 Unlicensed warehousemen must not represent themselves as licensed.

No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended and unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

§ 735.11 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the act shall,

before such license is granted, file with the Secretary or his designated representative a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall:

Faithfully perform during the period of one year commencing -----, or until the termination of said license(s) in the event of termination prior to the end of the one year period, all obligations of a licensed warehouseman under the terms of the act and regulations thereunder relating to the above-named products; and

Faithfully perform during said one year period and thereafter, whether or not said warehouse(s) remain(s) licensed under the act, such delivery obligations and further obligations as a warehouseman as exist at the beginning of said one year period or are assumed during said period and prior to termination of said license(s) under contracts with the respective depositors of such products in the warehouse(s);

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the act and regulations and contracts shall include obligations under any and all modifications of the act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

§ 735.12 Amount of bond; additional amounts.

(a) The amount of bond to be furnished by each warehouseman under the regulations in this part shall be at the rate of \$5 per bale for the maximum number of bales that his warehouse will accommodate when stored in the manner customary to the warehouse as determined by the Administrator, but not less than \$5,000 nor more than \$100,000, except as provided in paragraphs (b) and (c) of this section. In case a warehouseman has applied for licenses to operate two or more warehouses in the same State under the regulations in this part, and his total assets are subject to the li-

abilities of each warehouse, he may, if he desires, give a single bond meeting the requirements of the act and the regulations in this part to cover all such warehouses and such warehouses shall be deemed to be one warehouse for the purposes of such bond.

(b) In case of a deficiency in net assets above the \$10,000 minimum, required under § 735.5, there shall be added to the amount of the bond determined in accordance with paragraph (a) of this section, an amount equal to such deficiency.

(c) In case the Secretary, or his designated representative, finds the existence of conditions warranting such action, there shall be added to the amount of the bond determined in accordance with paragraphs (a) and (b) of this section, a further amount fixed by him, to meet such conditions.

§ 735.13 Amendment to license.

In case an application is made under § 735.3 for an amendment to a license and no bond previously filed by the warehouseman covers obligations arising under such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within the time, if any, fixed in such notice, a bond complying with the act. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and otherwise complying with the act and the regulations in this part may be filed in lieu of a new bond.

§ 735.14 New bond required each year.

Whenever a license has been issued for a period longer than one year, such license shall not be effective beyond one year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary.

or his designated representative, prior to the date on which said license would have expired had it been issued for but one year, subject to the provisions of § 735.13.

§ 735.15 Approval of bond.

No bond, amendment, or continuation thereof shall be accepted for the purposes of the act and the regulations in this part until it has been approved by the Secretary, or his designated representative.

WAREHOUSE RECEIPTS

§ 735.16 Form.

(a) Every receipt, whether negotiable or non-negotiable, issued for cotton stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the act, embody within its written or printed terms the following:

(1) The name of the licensed warehouseman and the designation, if any, of the warehouse;

(2) The license number of the warehouse;

(3) A statement whether the warehouseman is incorporated or unincorporated, and, if incorporated, under what laws;

(4) In the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship;

(5) The tag number given to each bale of cotton in accordance with § 735.31;

(6) A statement conspicuously placed, whether or not the cotton is insured, and if insured, to what extent, by the warehouseman, against loss or damage by fire, lightning and other risks;

(7) The words "Not Negotiable," or "Negotiable," according to the nature of the receipt, clearly and conspicuously printed or stamped thereon;

(8) A blank space designated for the purpose in which the grade and/or other classification may be stated; and

(9) A statement to the effect that the weight was determined by a weigher licensed under the U.S. Warehouse Act, except that if the weight is not so determined, as permitted in § 735.38, the receipt shall contain a statement to that effect.

(b) Except as to warehouse receipts issued on or before August 30, 1944, or when an expiration date authorized by the Department is shown on the face of the receipt, every negotiable receipt issued for cotton stored in a licensed warehouse shall be effective until surrendered for delivery of the cotton, and every nonnegotiable receipt shall be effective until surrendered for delivery of the cotton or until all cotton covered by the receipt has been delivered in response to proper delivery orders of the person rightfully entitled to the cotton: *Provided*, That nothing contained in this section shall prohibit a warehouseman from legally selling the cotton when his accrued storage and other charges approach the current market value of the cotton.

(c) In addition to complying with paragraphs (a) and (b) of this section, every negotiable receipt issued for cotton stored in a licensed warehouse shall embody within its written or printed terms a statement that the cotton covered by such receipt was classified by a licensed classifier or a board of cotton examiners when such cotton is so classified.

(d) Whenever the grade or other class of the cotton is stated in a receipt issued for cotton stored in a licensed warehouse, such grade or other class shall be determined by a licensed classifier or a board of cotton examiners upon the basis of a sample drawn in accordance with § 735.71, and shall be stated in the receipt in accordance with §§ 735.68 through 735.74.

(e) If a warehouseman issue a receipt omitting the statement of grade on request of the depositor, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

(f) Licensed receipts issued to cover linters shall be clearly and conspicuously marked "Linters".

(g) If a warehouseman issue a receipt under the act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

(Approved by the Office of Management and Budget under OMB control number 0581-0027)

[29 FR 15720, Nov. 24, 1964, as amended at 33 FR 14699, Oct. 2, 1968; 37 FR 12920, June 30, 1972; 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, January 14, 1985]

§ 735.17 Copies of receipts.

(a) At least one actual, skeleton, or microfilm copy of all receipts shall be made, and all copies, except skeleton and microfilm copies, shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable."

(b) A copy of each receipt issued shall be retained by the warehouseman for a period of 1 year after December 31 of the year in which the corresponding original receipt is canceled.

(c) If copies are retained on microfilm, the warehouseman shall:

(1) Have available at all times facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange, index, and file the films in such a manner as to permit the immediate location of any particular microfilm record; and

(3) Be ready at all times to provide, and immediately provide, at the expense of the warehouseman, any facsimile enlargement of such microfilm copies which any authorized officers or agents of the Department of Agriculture may request.

(Approved by the Office of Management and Budget under OMB control number 0581-0027)

[37 FR 12920, June 30, 1972, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.18 Lost or destroyed receipts; bond.

(a) In the case of a lost or destroyed receipt, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set out in paragraph (b) of this section.

(b) Before issuing such new or duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and, if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the cotton represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such receipt, and shall have as surety thereon preferably a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

§ 735.19 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is (a) in a form prescribed by the Administrator, (b) upon distinctive paper or card stock specified by the Administrator, (c) printed by a printer with whom the United States has a subsisting contract and bond for such print-

ing, and (d) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper, or on card stock distinctively tinted with fugitive ink by the printer in the manner prescribed by the contract under paragraph (c) of this section.

(Approved by the Office of Management and Budget under OMB control number 0581-0027)

[29 FR 15720, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.20 Partial delivery of cotton.

If a warehouseman delivers a part only of a lot of cotton for which he has issued a negotiable receipt under the act, he shall take up and cancel such receipt and issue a new receipt in accordance with the regulations in this part for the undelivered portion of the cotton.

§ 735.21 Return of receipts before delivery of cotton.

Except as permitted by law or by the regulations in this part, a warehouseman shall not deliver cotton for which he has issued a negotiable receipt under the act until such receipt has been returned to him and canceled; and shall not deliver cotton for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has obtained from the person lawfully entitled to such delivery or his authorized agent a written delivery order, properly signed, specifying by bale or tag number each bale to be delivered from any receipt or receipts. Before delivering, or upon delivery of, all the cotton covered by a nonnegotiable warehouse receipt, the warehouseman may require the surrender of the receipt. The location where receipts are to be surrendered shall be a location within reasonable proximity of the warehouse where the cotton is stored or other location that would not interfere with enforcement of the Act and regulations.

[37 FR 12920, June 30, 1972. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.22 Omission of grade: no compulsion by warehouseman.

No licensed warehouseman shall, directly or indirectly by any means whatever, compel or attempt to compel the depositor of any cotton in his warehouse to request the issuance of a receipt omitting the statement of grade.

DUTIES OF LICENSED WAREHOUSEMAN

§ 735.23 Insurance: requirements.

(a) When requested in writing by the depositor of cotton in a licensed warehouse, or by the holder of the receipt covering such cotton, to insure such cotton against loss or damage by fire, lightning, and other risks, each licensed warehouseman shall secure in his own name such insurance under reporting forms of policies which automatically attach for the full value of such cotton, including daily changes of value through market fluctuations and changes in the quantity of such product from day to day, as soon as such cotton is placed in his legal custody, and he shall continue such insurance in effect so long as the cotton remains in his legal custody. Such insurance shall be covered by lawful policies issued by one or more insurance companies. Each warehouseman insuring cotton under the provisions of this section shall submit such reports to underwriters as may be required under the terms of such policies, and copies of such reports shall be submitted to the Department as it may require. If the warehouseman is unable to procure insurance to the extent requested, he shall, orally or by telegraph or by telephone, and at his own expense, immediately notify the person making the request of such fact. When insurance is not carried in the warehouseman's name, the receipt shall show that the cotton is not insured by the warehouseman. Nothing in this section shall be construed to prevent a licensed warehouseman from adopting a rule that he will insure all cotton stored in his warehouse, but if he elects to insure he shall accomplish such insurance through policies as above specified.

(b) Each warehouseman shall keep exposed conspicuously in the place

prescribed by § 735.6, and at such other place as the Administrator or his representative may from time to time designate, a notice, stating briefly the conditions under which the cotton will be insured against loss or damage by fire, lightning, and other risks.

§ 735.24 Premiums; inspections; reports.

Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of the regulations in this part, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

§ 735.25 Warehouseman to collect and pay over insurance.

Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of the regulations in this part, and shall, as soon as collected, promptly pay over to the persons concerned any portion of such moneys which they may be entitled to receive from him.

§ 735.26 Care of cotton in licensed warehouse.

Each warehouseman shall at all times exercise such care in regard to cotton in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

§ 735.27 Care of other cotton and other commodities.

If, at any time, a warehouseman shall handle or store cotton otherwise than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise such care with respect to it, as not to endanger the cotton in his custody as a licensed warehouseman or impair his ability to meet his obligations and perform his duties under the act and the regulations in this part. Nonlicensed cotton

shall be kept separate from licensed cotton.

§ 735.28 Records to be kept in safe place.

(a) Each warehouseman shall provide a metal fireproof safe, a fireproof vault, or fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the licensed warehouse, including his current receipt book, copies of receipts issued, and canceled receipts or microfilm copies of canceled receipts except that with the written consent of the Administrator or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment he may keep such records, books, and papers in some other place of safety, approved by the Administrator or his representative.

(b) Each canceled receipt or microfilm copy of each canceled receipt shall be retained by the warehouseman for a period of 6 years after December 31 of the year in which the receipt is canceled and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act.

(c) Canceled receipts shall be arranged by the warehouseman in numerical order and otherwise in such manner as shall be directed, for purposes of audit, by authorized officers or agents of the Department of Agriculture.

(d) If microfilm copies of canceled receipts are to be retained in lieu of canceled receipts, the warehouseman shall:

(1) Have available at all times facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange, index, and file the films in such a manner as to permit the immediate location of any particular microfilm copy; and,

(3) Be ready at all times to provide, and immediately provide, at the expense of the warehouseman, any facsimile enlargement of such microfilm

copies which any authorized officers or agents of the Department of Agriculture may request.

(Approved by the Office of Management and Budget under OMB control number 0581-0027)

[37 FR 12920, June 30, 1972, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.29 Warehouse charges.

A licensed warehouseman shall not make any unreasonable, exorbitant, or discriminatory charge for services rendered. Before a license to conduct a warehouse is granted under the act, the warehousemen shall file with the Department a copy of his rules, if any, and a schedule of the charges to be made by him if licensed. Effective at the beginning of any cotton season, a licensed warehouseman may change his rate of charges for storage and other services, and the new rates may apply to all cotton then in storage as well as cotton received thereafter. At or before the beginning of each season every licensed warehouseman shall file with the Department a copy of his rules, if any, and of his schedule of charges for the ensuing season. Should a licensed warehouseman wish to make changes in his rates to become effective at any time other than at the beginning of a season, he shall file with the Department an amended schedule showing the contemplated changes, accompanied by a statement setting forth the reasons therefor. No increase in the storage rate shown in such an amended schedule shall apply to cotton in storage at the time the changes become effective. A licensed warehouseman may demand payment of all accrued charges at the close of each cotton season. If, upon demand, the owner of the cotton refuses to pay such charges at the end of a season, the warehouseman may take such action to enforce collection of his charges as is permitted by the laws of the State in which the warehouse is located. Each licensed warehouseman shall keep a copy of his current rules and schedule of charges exposed conspicuously in the place prescribed by § 735.6 and at such other place accessible to the

public as the Secretary or his designated representative may from time to time designate. For the purposes of this section the cotton season shall commence, with respect to each warehouse, at such time not later than September 1 of each year, as the operator of the warehouse shall select, and he shall notify the Department in writing not less than five days next preceding the date selected.

[29 FR 15720, Nov. 24, 1964, as amended at 47 FR 35751, Aug. 17, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.30 Business hours.

(a) Each licensed warehouse shall be kept open for the purpose of receiving cotton for storage and delivering cotton out of storage every business day for a period of not less than six hours between the hours of 8 a.m. and 6 p.m., except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously from 8 a.m. to 6 p.m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the address where he is to be found, who shall be authorized to deliver cotton stored in such warehouse, upon lawful demand by the depositor thereof or the holder of the receipt therefor, as the case may be.

§ 735.31 Numbered tags to be attached to bales.

Each warehouseman shall, upon acceptance of any bale of cotton for storage, immediately attach thereto a numbered tag of good quality which shall identify the bale. Such tag either shall be made of reasonably heavy waterproof paper or linen, with reinforced eyelet or eyelets, and be attached to the bale with a flexible, rustproof wire, or shall be made of such other material and attached by

such other means as shall be approved by the Administrator or his representative. The tags shall be attached in numerical sequence or any series of sequence clearly distinguishable from each other.

§ 735.32 Arrangement of stored cotton.

(a) Each warehouseman shall store each bale of cotton for which a receipt under the act has been issued so that the tag thereon, required by § 735.31 is visible and readily accessible, except as provided in paragraph (b) of this section, and shall arrange all other cotton in his licensed warehouse so as to permit an accurate check thereof.

(b) If any licensed warehouseman is tendered for storage cotton of same grade and staple and in such quantity by any one depositor that efficiency of operation dictates that such cotton should be stored in lots without reference to visibility of all tags on all bales within any lot, the warehouseman may store such cotton of same grade and staple belonging to the same depositor in lots of not less than 25 bales nor more than 200 bales: *Provided, however,* That each bale entering into the lot must bear an individual identification tag, and each lot must be so stored that the number of bales within the lot may be accurately determined.

(c) An identification card or tag shall be attached by the warehouseman to each lot of cotton which shall show the lot number and the number of bales in the lot. The warehouseman shall also maintain an office record showing bale or tag number of each bale in the lot and the location of the lot in the warehouse. Each lot shall be so arranged as to be readily distinguishable from each and every other lot. When requested by a proper representative of the Department of Agriculture engaged in making an examination of the warehouse, the warehouseman shall tear or break down at his own expense such stacks or lots of cotton as the examiner deems necessary to a proper examination. Before any warehouseman undertakes to store in accordance with this section he shall submit a statement setting forth: (1) His reasons for desiring to avail himself of this section and (2)

the plan of storage he proposes to follow, and he shall secure prior permission from the Secretary or his designated representative to practice such method of storage.

§ 735.33 System of accounts.

Each warehouseman shall use for his licensed warehouse a system of accounts, approved for the purpose by the Service, which shall show for each bale of cotton the tag number mentioned in § 735.31, its weight, its class when its class is required to be, or is, ascertained, its location, the dates received for, and delivered out of, storage, and the receipts issued and canceled, and such accounts shall include a detailed record of all moneys received and disbursed and of all effective insurance policies. Such records shall be retained by the warehouseman for a period of six years after December 31 of the year in which created, and for such longer period as may be necessary for the purposes of any litigation which the warehouseman knows to be pending, or as may be required by the Administrator in particular cases to carry out the purposes of the Act.

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[29 FR 15720, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.34 Reports.

Each licensed warehouseman shall, from time to time, when requested by the Administrator, or his representative, make such reports, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse as the Administrator may require.

§ 735.35 Canceled receipts; auditing.

Each warehouseman, when requested by the Service, shall forward his canceled receipts for auditing to such field offices of the Service as may be designated from time to time. For the purpose of this section, only such portion as the Service may designate of each canceled receipt, numbered to

correspond with the actual receipt number, need be submitted.

§ 735.36 Copies of reports to be kept.

Each warehouseman shall keep on file, as a part of the records of the warehouse, for a period of three years after December 31 of the year in which submitted, an exact copy of each report submitted by such warehouseman under the regulations in this part.

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[29 FR 15720, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.37 Inspections and examinations of warehouses.

Each licensed warehouseman shall permit any officer or agent of the Department, authorized by the Secretary for the purpose, to enter and inspect or examine, on any business day during the usual hours of business, any warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such officer or agent, when he so requests, the assistance necessary to enable him to make any inspection or examination under this section.

§ 735.38 Weighing of cotton: weighing apparatus.

(a) All cotton before being stored in a licensed warehouse, shall be weighed at the warehouse by a licensed weigher, and the weight so determined shall be stated on the warehouse receipt; except that by agreement with the depositor, point of origin weights may be stated on the receipt for cotton tendered for storage in a lot the identity of which is to be preserved during storage and shipment from the warehouse, and for which a multiple bale receipt is to be issued: *Provided*, That if such lot is broken at the warehouse, each bale shall be weighed at the warehouse by a licensed weigher before single bale warehouse receipts are issued.

(b) Each licensed warehouse shall be equipped with scales acceptable to the Department for weighing cotton into and out of the warehouse. The weighing apparatus used for ascertaining the weight stated in a receipt or certificate, issued for cotton stored in a licensed warehouse, shall be subject to examination by an officer or agent of the Department designated by the Administrator for the purpose. If the Department shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any cotton for the purposes of the act and the regulations in this part.

[33 FR 14699, Oct. 2, 1968. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.39 Loose cotton.

Each warehouseman shall keep his warehouse reasonably free of loose cotton, except in a space or container separate and apart from other cotton.

§ 735.40 Excess storage.

If at any time a warehouseman shall store cotton in his licensed warehouse in excess of the capacity thereof determined in accordance with § 735.12, such warehouseman shall so arrange the cotton as not to obstruct free access thereto and the proper use of sprinkler or other fire protection equipment provided for such warehouse, and shall immediately notify the Administrator of such excess storage and arrangement thereof.

§ 735.41 Removal of cotton from storage.

Except as may be permitted by law or the regulations in this part, a warehouseman shall not remove any cotton, for storage, from the licensed warehouse or a part thereof designated in the receipt for such cotton, if by such removal the insurance thereon will be impaired, without first obtaining the consent in writing of the holder of the receipt, and indorsing on such receipt the fact of such removal. Under no other circumstances, unless it becomes absolutely necessary to protect the interests of holders of receipts, shall cotton be removed from the warehouse, and immediately upon any such removal the warehouseman

shall notify the Administrator of such removal and the necessity therefor.

§ 735.42 Storage of wet and fire-damaged cotton.

A warehouseman shall not place any bale of cotton that is excessively wet in contact with any other cotton in the licensed warehouse. A warehouseman shall not store in the same compartment with cotton that has not been damaged by fire any cotton that has been damaged by fire until the risk of fire therein has passed and the fire-damaged cotton has been removed from the bale, and then he shall not store it in contact with cotton that has not been so damaged.

§ 735.43 Cotton handling; storage; injuries.

A warehouseman shall not handle or store cotton in such manner as will injure or damage it, or in any part of the warehouse in which it is likely to be injured or damaged by excessive moisture, or otherwise.

§ 735.44 Fire loss to be reported by wire.

If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by wire to the Administrator the occurrence of such fire and the extent of damage.

§ 735.45 Signatures on receipts to be filed with Department.

Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign, and shall file signatures of such persons.

§ 735.46 Signs on field warehouses.

(a) Every warehouseman operating a "field" or "custodian" warehouse shall, during the life of his license, display and maintain appropriate signs on the licensed warehouse, both on the inside and on the exterior walls of the warehouse, and particularly on doors and usual places of entry, in such manner as will ordinarily be calculated to give the public correct

notice of his tenancy of all buildings or parts thereof included in his license.

(b) Such signs shall be of such size and design as to readily attract the attention of the public and shall include the following: (1) The name and license number of the licensee, (2) the name of the warehouse, (3) whether the warehouseman is owner or lessee, and (4) the words "Public Warehouse."

(c) Such other wording or lettering may appear in the sign or signs not inconsistent with the purpose of the act and the regulations in this part subject to the approval of the Service.

(d) Immediately upon the expiration or suspension or revocation of a license all signs required under this section shall be removed from the warehouse.

(e) No sign other than that required by this section shall remain on a licensed warehouse.

§ 735.47 Certificates to be filed with warehouseman.

When a grade or weight certificate has been issued by a licensed grader or weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the cotton covered by such certificate is stored, and such certificates shall become a part of the records of the licensed warehouseman. The licensed warehouseman shall also keep a copy of each Form A memorandum and Form C certificate issued by a board of cotton examiners which forms a basis of any receipt issued by the warehouseman. All certificates and memoranda within this section shall be retained in the records of the licensed warehouseman for a period of one year after December 31 of the year in which the receipt based on such certificates or memoranda is canceled.

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[29 FR 15720, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.48 Drawing of samples.

Each warehouseman shall have in his employ at all times one or more li-

censed samplers whose duty it shall be to draw samples from any cotton stored or to be stored in the licensed warehouse if the owner of such cotton or any person having a legal right to have such cotton sampled requests that samples be drawn. When directed by the Administrator such requests shall be in writing. Such samplers shall perform their duties under the supervision and at the direction of the licensed warehouseman and the samples shall be drawn in accordance with § 735.72.

§ 735.49 Samples; drawing and marking; how.

All samples drawn from cotton in the custody of a licensed warehouseman for storage in a licensed warehouse shall be drawn by licensed samplers in the employ of the licensed warehouseman and at his direction and under his supervision, except when they are drawn as provided in § 735.79 or are drawn by or under the direction of a cotton exchange inspection agency in accordance with the regulations in Part 27 of this chapter under the cotton futures legislation (28 U.S.C. 4851 et seq.) or are drawn under the supervision of a Cotton Division employee in accordance with the regulations in Part 28 of this chapter under the United States Cotton Standards Act (7 U.S.C. 51 et seq.). Each sample shall be appropriately marked to show the tag number of the bale of cotton from which it was drawn and the date of sampling. A record of the sampling, including the written request, if any, of the owner of the cotton or the person having a legal right to have such cotton sampled, shall be kept by the licensed warehouseman as a part of the warehouse records, for a period of one year after December 31 of the year in which such cotton is removed from the warehouse.

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[29 FR 15720, Nov. 24, 1964, as amended at 47 FR 745, Jan. 7, 1982. Redesignated at 50 FR 1814, Jan. 14, 1985]

FEEs

§ 735.50 License fees.

There shall be charged and collected a fee of \$50 for each original warehouseman's license, and a fee of \$50 for each amended, modified, extended, reinstated or duplicate warehouseman's license applied for by a warehouseman, and a fee of \$20 for each license or amendment thereto issued to any person to classify, sample, or weigh agricultural products stored or to be stored under provisions of this act.

[49 FR 3640, Jan. 30, 1984. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.51 Warehouse inspection fee.

There shall be charged and collected for each original examination or inspection, or reexamination or reinspection of a warehouse under the Act a fee at the rate of \$50 for each 1,000 bales of storage capacity, or fraction thereof, determined in accordance with § 735.5, but in no case less than \$100 nor more than \$1,000.

[49 FR 3640, Jan. 30, 1984. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.52 Advance deposit.

Before any license is granted, or an original examination or inspection is made, or reexamination or reinspection for modification of an existing license is made, pursuant to the regulation in this part, the applicant or licensee shall deposit with the service the amount of the fee prescribed. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post office or express money order, payable to the order of "Agriculture Stabilization and Conservation Service, USDA." *

[49 FR 3640, Jan. 30, 1984. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.53 Return of excess deposit.

The Service shall hold in its custody each advance deposit made under § 735.52 until the fee, if any, is assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be

* Function transferred from Agricultural Marketing Service, May 13, 1984.

returned to the party depositing the same.

[49 FR 3640, Jan. 30, 1984. Redesignated at 50 FR 1814, Jan. 14, 1985]

LICENSED CLASSIFIERS AND LICENSED WEIGHERS

§ 735.54 Sampler's, classifier's, and weigher's applications.

(a) Applications for licenses to sample, classify and/or weigh cotton under section 11 of the act shall be made to the Administrator on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, shall be verified by him, under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by—

(1) The name and location of a warehouse or warehouses licensed, or for which application for license has been made, under the act, in which cotton sought to be sampled, classified and/or weighed under such license is or may be stored;

(2) A statement from the warehouseman conducting such warehouse showing whether or not the applicant is competent and is acceptable to such warehouseman for the purpose;

(3) Satisfactory evidence that he is competent to sample, classify and/or weigh cotton;

(4) A statement by the applicant that he agrees to comply with and abide by the terms of the act and the regulations in this part so far as the same may relate to him; and

(5) Such other information as the Administrator may deem necessary:

Provided, That when an application for a license to classify cotton is filed by a person who does not intend to classify cotton for any particular licensed warehouseman but who does intend to classify cotton stored or to be stored in a licensed warehouse and to issue class certificates therefor, as provided for by the act and the regulations in this part, independent of the warehouse receipts issued to cover such cotton, it shall not be necessary to furnish such statement as is required in this paragraph.

(c) For the purpose of classifying cotton under the regulations in this part, each licensed classifier who holds an unsuspended or unrevoked license under the Cotton Standards Act of March 4, 1923, and regulations thereunder to classify cotton and certificate the grade thereof shall be deemed competent and a license may be issued to him under the United States Warehouse Act upon furnishing the information required by paragraph (b) of this section except as specified in paragraph (c)(3) of this section.

(d) The applicant shall at any time furnish such additional information as the Secretary, or his designated representative, shall find to be necessary to the consideration of his application.

(e) A single application may be made by any person for a license as a sampler, classifier and weigher upon complying with all the requirements of this section.

§ 735.55 Examination of applicant.

Each applicant for a license as a sampler, classifier and/or weigher and each licensed sampler, classifier and/or weigher shall, whenever requested by an authorized agent of the Department designated by the Administrator, for the purpose, submit to an examination or test to show his ability to properly sample, classify or weigh cotton, as the case may be, and shall also make available for inspection copies of the standards of classification or the weighing apparatus as the case may be, used or to be used by him.

§ 735.56 Posting of license.

Each licensed classifier shall keep his license conspicuously posted in the office where all or most of the classifying is done, and each licensed sampler and/or weigher shall keep his license conspicuously posted in the warehouse office or in such place as may be designated for the purpose by a representative of the Service.

§ 735.57 Duties of sampler, classifier and weigher.

Each licensed classifier or weigher whose license remains in effect shall, without discrimination, as soon as practicable, and upon reasonable

terms, classify or weigh and certificate the class or weight, respectively, of cotton stored or to be stored in a licensed warehouse to which his license applies, if such cotton is offered to him under such conditions as permit the proper performance of such functions; except that no class or weight certificate need be issued when the class or weight so determined is entered on a receipt by the licensed classifier or weigher making the determination thereof. Each licensed sampler shall sample cotton stored or to be stored in a licensed warehouse for which he holds a license, in accordance with § 735.48. Each licensed sampler, classifier, and weigher shall give preference to persons who request his services as such over persons who request his services in any other capacity. No class or weight certificate shall be issued under the act for cotton not in the custody of a licensed warehouseman for purposes of storage in a licensed warehouse, nor shall cotton not in the custody of such a warehouseman for such purpose be sampled by a licensed sampler acting as such.

§ 735.58 Class certificates; form.

(a) Each class certificate issued under the act by a licensed classifier shall be in a form approved for the purpose by the Administrator, and shall embody within its written or printed terms:

- (1) The caption "Cotton class certificate";
- (2) Whether it is an original, a duplicate, or other copy;
- (3) The name and location of the licensed warehouse in which the cotton is or is to be stored;
- (4) The date of the certificate;
- (5) The location of the cotton at the time of classification;
- (6) The identification of each bale of cotton by the tag number given to the bale in accordance with § 735.31 or if there be no such tag number by other marks or numbers;
- (7) The grade or other class, except length of staple, of each bale of cotton covered by the certificate, in accordance with §§ 735.68 through 735.73, as far as applicable, and the standard or

description in accordance with which the classification is made;

(8) A blank space designated for the purpose in which the length of staple may be stated;

(9) That the certificate is issued by a licensed classifier under the United States Warehouse Act and regulations thereunder; and

(10) The signature of the licensed classifier.

In addition, the class certificate may include any other matter not inconsistent with the act or the regulations in this part, provided the approval of the Service is first secured.

(b) Form A memorandums and Form C certificates issued by a board of cotton examiners and class certificates issued by licensed classers under the United States Cotton Standards Act (7 U.S.C. 51 et seq.) shall be deemed sufficient for the purposes of the United States Warehouse Act and the regulations in this part, if the samples on which they are based were drawn in accordance with applicable requirements of § 735.71, and, in case of a class certificate issued by such a licensed classer, if the classer holds an unsuspended and unrevoked license under each of said acts.

§ 735.59 Weight certificates; form.

Each weight certificate issued under the act by a licensed weigher shall be in a form approved for the purpose by the Administrator, and shall embody within its written or printed terms:

- (a) The caption "Cotton weight certificate";
- (b) Whether it is an original, a duplicate, or other copy;
- (c) The name and location of the licensed warehouse in which the cotton is or is to be stored;
- (d) The date of the certificate;
- (e) The location of the cotton at the time of weighing;
- (f) The identification of each bale of cotton by the tag number given to the bale in accordance with § 735.31 or if there be no such tag number by other marks or numbers;
- (g) The gross, or net and tare, weight of the cotton and, if the cotton be excessively wet or otherwise of a condition materially affecting its weight, a statement of such fact to

which may be added the weigher's estimate of the number of pounds which should be allowed for such condition;

(h) That the certificate is issued by a licensed weigher under the United States Warehouse Act and the regulations thereunder; and

(i) The signature of such licensed weigher.

In addition, the weight certificate may include any other matter not inconsistent with the act or the regulations in this part, provided the approval of the Service is first secured.

[29 FR 15720, Nov. 24, 1964, as amended at 37 FR 12920, June 30, 1972. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.60 Combined class and weight certificates.

The class and weight of any cotton, ascertained by a licensed classifier and a licensed weigher, may be stated on a certificate meeting the combined requirements of §§ 735.58 and 735.59 if the form of such certificate shall have been approved for the purpose by the Administrator.

§ 735.61 Copies of certificates to be kept.

Each licensed classifier and each licensed weigher shall keep for a period of one year in a place accessible to interested persons a copy of each certificate issued by him under the regulations in this part and shall file a copy of each such certificate with the warehouse in which the cotton covered by the certificate is stored.

§ 735.62 Licensees to permit and assist in inspection.

Each licensed sampler, classifier, and/or weigher shall permit any officer or agent of the Department authorized by the Secretary for the purpose, to inspect or examine, on any business day during the usual hours of business, his books, papers, records, and accounts relating to the performance of his duties under the act and the regulations in this part, and shall, with the consent of the licensed warehouseman concerned, assist any such officer or agent in the inspection or examination mentioned in § 735.37 as far as any such inspection or examination relates to the performance of the

duties of such licensed sampler, classifier, and/or weigher under the act and this part.

§ 735.63 Reports.

Each licensed sampler, classifier, and/or weigher shall, from time to time, when requested by the Administrator, make reports, on forms furnished for the purpose by the Service, bearing upon his activities as such licensed sampler, classifier, and/or weigher.

§ 735.64 Licenses; suspension or revocation.

Pending investigation, the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of a sampler, classifier and/or weigher temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by a licensed sampler, classifier, and/or weigher, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such licensed sampler, classifier, and/or weigher. The Secretary, or his designated representative, may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a licensed sampler, classifier, and/or weigher when such licensed sampler, classifier, and/or weigher (a) has ceased to perform services as such sampler, classifier, and/or weigher, or (b) has in any other manner become incompetent or incapacitated to perform the duties of such licensed sampler, classifier, and/or weigher. As soon as it shall come to the attention of a licensed warehouseman that any of the conditions mentioned under (a) or (b) of this section exist, it shall be the duty of such warehouseman to notify, in writing, the Administrator. Before the license of any licensed sampler, classifier, and/or weigher is permanently suspended or revoked pursuant to section 12 of the act, such licensed sampler, classifier, and/or weigher shall be furnished by the Secretary or by his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may

answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with § 735.89.

§ 735.65 Suspended or revoked licenses; return; termination of license.

(a) In case a license issued to a sampler, classifier, and/or weigher is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be endorsed thereon, and it shall be returned to the licensed sampler, classifier, and/or weigher to whom it was originally issued, and it shall be posted as prescribed in § 735.56.

(b) Any license issued, under the act and the regulations in this part, to a sampler, classifier, and/or weigher shall automatically terminate as to any warehouse whenever the license of such warehouse shall be revoked or canceled. Thereupon the license of such sampler, classifier, and/or weigher shall be returned to the Secretary. In case such license shall apply to other warehouses, the Secretary, or his designated representative, shall issue to him a new license, omitting the names of the warehouses covering which licenses have been revoked. Such new license shall be posted as prescribed in § 735.56.

§ 735.66 Lost or destroyed licenses.

Upon satisfactory proof of the loss or destruction of a license issued to a licensed sampler, classifier, and/or weigher, a duplicate thereof may be issued under the same number.

§ 735.67 Unlicensed classifiers and weighers.

No person shall in any way represent himself to be a sampler, classifier, and/or weigher licensed under the act unless he holds an unsuspended and unrevoked license issued under the act.

COTTON CLASSIFICATION

§ 735.68 Statement of class.

Whenever the grade or other class of cotton is required to be, or is, stated for the purpose of the act or the regulations in this part it shall be stated in accordance with §§ 735.68 through 735.73 as far as applicable.

§ 735.69 Official cotton standards of the United States.

The official cotton standards of the United States, established and promulgated under the United States Cotton Standards Act of March 4, 1923 (42 Stat. 1517; 7 U.S.C. 51-56), within their scope, are hereby adopted as the official cotton standards for the purposes of the act and the regulations in this part.

§ 735.70 Defective cotton; designation; terms defined.

(a) Cotton that.

(1) Because of the presence of extraneous matter of any character or irregularities or defects, is reduced in value below that of Good Ordinary,

(2) Is below the grade of Good Ordinary,

(3) Is below the grade of Low Middling, if tinged,

(4) Is below the grade of Middling, if stained,

(5) Is linters,

(6) Is less than seven-eighths of an inch in length of staple,

(7) Is of perished staple,

(8) Is of immature staple,

(9) Is gin cut,

(10) Is reginned,

(11) Is repacked,

(12) Is false packed,

(13) Is mixed packed, or

(14) Is water packed, shall be designated as such.

In the case of paragraph (a)(1) of this section the particular extraneous matter or irregularities or defect shall be stated.

(b) If cotton be reduced in value, because of the presence of extraneous matter of any character or irregularities or defects, below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced shall be stated.

duced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value shall be determined and stated.

(c) For the purposes of this section, the following terms shall be construed, respectively, to mean:

(1) *Cotton of perished staple.* Cotton that has had the strength of fiber as ordinarily found in cotton destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(2) *Cotton of immature staple.* Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(3) *Gin-cut cotton.* Cotton that shows damage in ginning through cutting by the saws, to an extent that reduces its value more than two grades.

(4) *Reginned cotton.* Cotton that has passed through the ginning process more than once and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(5) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales.

(6) *False packed cotton.* Cotton in a bale (i) containing substances entirely foreign to cotton, (ii) containing damaged cotton in the interior with or without any indication of such damage upon the exterior, (iii) composed of good cotton upon the exterior and decidedly inferior cotton in the interior in such manner as not to be detected by customary examination—that is, a plated bale, or (iv) containing pickings or linters worked into the bale.

(7) *Mixed packed cotton.* Cotton in a bale which, in the samples drawn therefrom, shows (i) a difference of three or more grades, or (ii) a difference of three or more color gradations, or (iii) a difference of two or more grades and two or more color gradations, or (iv) a difference in length of staple of one-eighth inch or more.

(8) *Water packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

§ 735.71 Class based on inspection and sample.

Whenever the grade or other class of cotton is required to be, or is, stated by a warehouseman or a classifier or board of cotton examiners for the purposes of the act or the regulations in this part, it shall be based upon a careful inspection of and a sample properly drawn from the cotton. Samples submitted to a board of cotton examiners for issuance of Form A memorandums and samples from which classification is to be determined by licensed classifiers for purposes of the Act and the regulations in this part shall be drawn by samplers licensed under the Act and said regulations and in accordance with § 735.72.

§ 735.72 Samples.

Each sample shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale. Each sample must be representative of the bale from which drawn. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample which does not meet these requirements may be rejected.

§ 735.73 Lower grade (of two samples) to determine classification.

If a sample drawn from one portion of a bale is lower in grade or shorter in length than one drawn from another portion of such bale, the classification of the bale shall be that of the sample showing the lower grade or shorter length.

§ 735.74 Access to official cotton standards.

Each licensed warehouseman and each licensed classifier shall keep himself provided with, or have access to, a

set of practical forms of the official cotton standards of the United States, or such parts thereof as the Administrator may deem necessary for use in the locality in which the licensed warehouse is located.

COTTON APPEALS

§ 735.75 Who may appeal.

Whenever the grade or other class of cotton, for which official cotton standards of the United States are in effect, is stated on a receipt or a cotton class certificate issued under the act and the regulations in this part, and a question arises as to the true grade or other class of such cotton, any person having an interest in the cotton may take an appeal for the determination of such question.

§ 735.76 Complaint.

In order to take such an appeal a complaint in writing in accordance with § 735.77 shall be filed with a duly authorized cotton examiner or a board of cotton examiners, or with the Administrator, who shall designate a cotton examiner or a board of cotton examiners for the purpose of disposing of such complaint.

§ 735.77 Contents of complaint.

Such complaint shall be in English and shall state:

(a) The name and post office address of the complainant and the nature of his interest in the cotton.

(b) The name and post office address of the holder of the receipt, if he be not the complainant, and of any other interested party.

(c) The name and location of the licensed warehouse in which the cotton is stored, and the tag number assigned to each bale of cotton involved in the appeal in accordance with § 735.31, the grade or other class assigned to such cotton by the licensed warehouseman, and the date of the receipt issued therefor.

(d) The grade or other class assigned by the licensed classifier, if any.

(e) The grade or other class, different from that assigned by the licensed warehouseman, which is contended for by any interested party.

(f) Whether, within complainant's knowledge, any appeal involving the same cotton previously has been taken, and if so, an appropriate identification of such other appeal.

(g) If samples have been agreed upon and are submitted in accordance with § 735.79(b), a statement thereof.

The complainant shall file with his complaint, when practicable, or before the issuance of the cotton appeal certificate, in the appeal, the warehouse receipt or class certificate, if any, covering the cotton involved in the appeal. When such receipt or certificate is not filed a definite statement indicating why such papers are not produced shall be filed.

§ 735.78 Proof of agent's authority.

In case a complaint is filed under §§ 735.75 through 735.77 by a person purporting to act in behalf of another person, the Administrator, or the cotton examiner or the board of cotton examiners with whom it was filed, may, if considered necessary, require proof of the authority of such person to file the complaint.

§ 735.79 Determination of appeals; samples.

(a) Appeals taken hereunder shall be determined upon the basis of samples of the cotton involved which have been drawn and submitted in accordance with this section.

(b) The complainant may submit samples of the cotton involved which have been agreed upon by the licensed warehouseman in whose warehouse the cotton is stored and the interested parties other than such warehouseman, or have been drawn by a disinterested person selected for the purpose by the warehouseman and such parties. Such samples shall be drawn in accordance with § 735.72.

(c) If samples which have been submitted pursuant to paragraph (b) of this section be deemed unsatisfactory, the cotton examiner or board of cotton examiners by whom the appeal is heard or the Administrator may require the submission of new samples in accordance with paragraph (b) of this section.

(d) In case samples are not submitted in accordance with paragraph (b)

or (c) of this section, the Administrator, the cotton examiner, or board of cotton examiners by whom the appeal is heard may dismiss the appeal as provided in § 735.80, or samples may be drawn from the cotton involved by a cotton examiner or by a disinterested person designated for the purpose by the cotton examiner or the board of cotton examiners by whom the appeal is heard or by the Administrator, and the complainant shall cause the cotton to be made accessible for the purpose of drawing such samples.

§ 735.80 Dismissal of appeals.

The Administrator or the cotton examiner or board of cotton examiners by whom an appeal is heard may dismiss such appeal upon request of the complainant, or for noncompliance with the regulations in this part, or if it be found that the appeal was not taken in good faith. In case of an appeal filed in the first instance with a cotton examiner, a dismissal upon request of the complainant shall be made only before notice of grade or other class as provided in § 735.81 is issued.

§ 735.81 Cotton appeal certificate.

When an appeal filed with a board of cotton examiners has been determined, it shall immediately issue a cotton appeal certificate. When an appeal has been determined by a cotton examiner he shall issue a notice, a copy of which shall be sent by him to all parties shown by the record of the appeal to have an interest therein. In such notice the grade or other class assigned by him to the cotton involved in the appeal shall be stated, and any such interested party shall have a reasonable time, fixed in such notice, within which he may request of the Administrator a review of the appeal by a board of cotton examiners. In case such request is not filed with such cotton examiner in the time fixed therefor, or in case within such time every such interested party waives in writing a review by a board of cotton examiners, the cotton examiner shall immediately issue a cotton appeal certificate showing the grade or other class assigned to the cotton

by him. In case a request under this section for a review of an appeal is filed within the time fixed for the filing of such request, the cotton examiner shall note in his records the time of such filing and shall immediately notify the Administrator, who shall cause the appeal to be reviewed and a cotton appeal certificate issued showing the grade or other class assigned upon such review. Immediately upon the issuance of a cotton appeal certificate under this section, the original thereof, together with any receipt covering such cotton filed in the appeal, shall be sent to the licensed warehouseman concerned, and a copy shall be sent to each other person shown by the record of the appeal to be interested therein.

§ 735.82 Expenses paid by complainant.

All expenses for the transmission of communications from the complainant, for telegraph and telephone toll charges on messages addressed to him, and for drawing and submitting samples required by § 735.79, including such traveling expenses, if any, incurred in accordance with the fiscal regulations of the Department as the Administrator may deem proper, shall be borne by the complainant in the appeal in connection with which such expenses were incurred.

§ 735.83 Advance deposit by complainant.

If required by the cotton examiner or board of cotton examiners by whom the appeal is heard, the complainant shall make an advance deposit to cover the expenses payable by him under § 735.82. Such deposit shall be in an amount fixed by the cotton examiner or board of cotton examiners, and shall be in the form of a check, certified if required by the Administrator or a post office or express money order, payable to the order of "Treasurer of the United States." As soon as possible after the determination of an appeal in connection with which any such advance deposit shall have been made, the Administrator shall furnish the Treasurer of the United States with a statement of the expenses, if any, chargeable against such advance deposit. Thereupon the Treasurer of the United States shall return to the

person making the advance deposit as much thereof as shall not be required for the payment of such expenses.

§ 735.84 New warehouse receipt.

Upon demand by the lawful holder of a receipt for cotton involved in an appeal under §§ 735.75 through 735.85, the licensed warehouseman shall surrender to such holder the original cotton appeal certificate issued in such appeal, and, if the grade or other class shown by such certificate be different from that shown by the receipt, shall, upon the return of the old receipt, issue a new receipt stating the grade or other class shown by such cotton appeal certificate.

§ 735.85 Disposition of samples.

Samples submitted in appeals under this part may be used for the purposes of the Department or disposed of in accordance with the property regulations of the Department, and the proceeds, if any, covered into the Treasury of the United States as miscellaneous receipts, or may, at any time, in the discretion of the Administrator, be returned to the complainant at his expense.

MISCELLANEOUS

§ 735.86 Bonds required.

Every person applying for a license, or licensed, under section 9 of the act, shall, as such, be subject to all portions of these regulations so far as they may relate to warehousemen. In case there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of cotton and to store the same in any of said warehouses may, in lieu of a bond or bonds, complying with §§ 735.11 and 735.12, file with the Secretary a single bond meeting the requirements of the act and regulations in such form, and in such amount not less than \$5,000, as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of cotton and its storage in the warehouses in such system for which licenses are or may be

issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any renewals or extensions thereof. In fixing the amount of such bond, consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary, or his designated representative, shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed, a further amount, fixed by him, to meet such conditions.

§ 735.87 Publications.

Publications under the act and the regulations in this part shall be made in such media as the Administrator may from time to time designate.

§ 735.88 Information of violations.

Every person licensed under the act shall immediately furnish the Service any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations in this part has been violated.

§ 735.89 Procedure in hearings.

Hearings under the Act or the regulations in this part, except those relating to appeals or arbitrations shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under various statutes (7 CFR 1.130 through 1.151).

[45 FR 6775, Jan. 30, 1980. Redesignated at 50 FR 1814, Jan. 14, 1985]

§ 735.90 One document and one license to cover several products.

A license may be issued for the storage of two or more agricultural products in a single warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document or proceeding relating to such warehouse, shall

be sufficient unless otherwise directed by the Administrator.

§ 735.91 Assets and bond; combination warehouses.

Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Administrator in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees if the full capacity of the warehouse was used for its storage.

§ 735.92 Amendments.

Any amendment to, or revision of this part, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

UNITED STATES WAREHOUSE ACT

1/

(7 U.S.C. 241-273)

That this Act shall be known by the short title of "United States warehouse Act." (7 U.S.C. 241.)

Sec. 2. That the term "warehouse" as used in this Act shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this Act, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt. (7 U.S.C. 242.)

Sec. 3. That the Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this Act, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this Act; to determine whether warehouses for which licenses are applied for or have been issued under this Act are suitable for the

proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this Act; and to prescribe, within the limitations of this Act, the duties of the warehousemen conducting warehouses licensed under this Act with respect to their care of and responsibility for agricultural products stored therein. (7 U.S.C. 243.)

Sec. 4. That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this Act and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder. (7 U.S.C. 244.)

Sec 5. That each license issued under Sections 4 and 9 of this Act shall terminate as therein provided, or in accordance with the terms of this Act

1/ August 11, 1916, ch. 313, part C, § 28, 39 Stat. 486, as amended July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1282; March 2, 1931, ch. 366, § 146 Stat. 1463; Aug. 13, 1981, Pub. L. 97-35, § 158, 95 Stat. 357, effective Oct. 1, 1981; Mar. 20, 1986, Pub. L. 99-260, § 14, 100 Stat. 54.

and the regulations thereunder, and may from time to time be modified or extended by a written instrument. (7 U.S.C. 245.)

Sec. 6. That each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked. (7 U.S.C. 247.)

Sec. 7. That any person injured by the breach of any obligation to secure which a bond is given, under the provisions of Sections 6 or 9, shall be entitled to sue on the bond in his own name in any court of competent juris-

diction to recover the damages he may have sustained by such breach. (7 U.S.C. 249.)

Sec. 8. That upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this Act, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this Act, and no name or description conveying the impression that it is so bonded shall be used until a bond, such as provided for in section 6, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this Act for the conduct of such warehouse remains unsuspended and unrevoked. (7 U.S.C. 250.)

Sec. 9. That the Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products, and to store the same in a warehouse or warehouses owned, operated, or leased by any state, upon condition that such person agree to comply with and abide by the terms of this Act and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this Act, and the rules and regulations hereunder affecting warehousemen licensed under this Act, and shall otherwise be subject to this Act, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder. (7 U.S.C. 248.)

Sec. 10. The Secretary of Agriculture, or the Secretary's designated representative, shall charge, assess, and cause to be collected a

reasonable fee for (1) each examination or inspection of a warehouse (including the physical facilities and records thereof and the agricultural products therein) under this Act; (2) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored under provisions of this Act; (3) each annual warehouse license issued to a warehouseman to conduct a warehouse under this Act; and (4) each warehouse license amended, modified, extended, or reinstated under this Act. Such fees shall cover as nearly as practicable, the costs of providing such services and licenses, including administrative and supervisory costs: *Provided*, That the amount of such fees collected for cotton warehouse inspections shall not exceed \$400,000 in the fiscal year ending September 30, 1982, \$415,000 in fiscal year ending September 30, 1983, and \$430,000 in the fiscal year ending September 30, 1984. All fees collected shall be credited to the current appropriation account that incurs the costs and shall be available without fiscal year limitation to pay the expenses of the Secretary incident to

providing services under this Act. The Secretary may deposit such funds in an interest bearing account with a financial institution. If any interest is earned on this account such interest shall be credited to the account for use by the Secretary in providing such services. (7 U.S.C. 251.)

Sec. 11. That the Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this Act, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Act and of the rules and regulations prescribed hereunder so far as the same relate to him. (7 U.S.C. 252.)

Sec. 12. That any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this Act or of the rules and regulations prescribed hereunder, so far as the same may relate to him,

or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing. (7 U.S.C. 253.)

Sec. 13. That every warehouseman conducting a warehouse licensed under this Act shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities. (7 U.S.C. 254.)

Sec. 14. That any person who deposits agricultural products for storage in a warehouse licensed under this Act shall be deemed to have deposited the same subject to the terms of this Act and the rules and regulations prescribed hereunder. (7 U.S.C. 255.)

Sec. 15. That any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act shall be inspected and graded by a person duly licensed to grade the same under this Act. (7 U.S.C. 256.)

Sec. 16. That every warehouseman conducting a warehouse licensed under this Act shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with

other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades. (7 U.S.C. 258.)

Sec. 17. (a) Except as provided in subsection (b), for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

(b)(1) Notwithstanding any other provision of this Act, if a warehouseman because of a temporary shortage lacks sufficient space to store the agricultural products of all depositors in a licensed warehouse, the warehouseman may, in accordance with regulations issued by the Secretary of Agriculture and subject to such terms and conditions as the Secretary may prescribe, transfer stored agricultural products for which receipts have been issued out of such warehouse to another licensed warehouse for continued storage.

(2) The warehouseman of a licensed warehouse from which agricultural products have been transferred under paragraph (1) shall deliver to the rightful owner of such products, on request, at the licensed warehouse where first deposited, such products in the

amount, and of the kind, quality, and grade, called for by the receipts or other evidence of storage of such owner. (7 U.S.C. 259.)

Sec. 18. That every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt

be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for, which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issued it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by a depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued; *Provided, however*, The Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable. (7 U.S.C. 260.)

Sec. 19. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority of any other Act of Congress shall be, and are hereby, adopted for the purposes of this Act as the official standards of the United States for the agricultural products to which they relate. (7 U.S.C. 257.)

Sec. 20. That while an original receipt issued under this Act is out-

standing and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this Act. (7 U.S.C. 261.)

Sec. 21. That a warehouseman conducting a warehouse licensed under this Act, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipts; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgment that they have been delivered if such signature is requested by the warehouseman. (7 U.S.C. 262.)

Sec. 22. That a warehouseman conducting a warehouse licensed under this Act shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the

agricultural products for which the receipt was issued. (7 U.S.C. 263.)

Sec. 23. That every warehouseman conducting a warehouse licensed under this Act shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all respects in compliance with this Act and the rules and regulations made hereunder. (7 U.S.C. 264.)

Sec. 24. That the Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this Act. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this Act and the rules and regulations made hereunder, the Secretary may publish his findings. (7 U.S.C. 265.)

Sec. 25. That the Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing. (7 U.S.C. 246.)

Sec. 26. That the Secretary of Agriculture from time to time may publish the results of any investigations made under Section 3 of this Act; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this Act and lists of all licenses terminated under this Act and the causes therefor. (7 U.S.C. 266.)

Sec. 27. That the Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this Act and of the warehousemen conducting such warehouses relating thereto. (7 U.S.C. 267.)

Sec. 28. That the Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act. (7 U.S.C. 268.)

Sec. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This Act shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States. (7 U.S.C. 269.)

Sec. 30. That every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any li-

cense issued by the Secretary of Agriculture, or his designated representative, under this Act, or who shall violate or fail to comply with any provision of Section 8 of this Act, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this Act or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture, for the value of such products to the extent that such owner has not otherwise been reimbursed. That any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this Act, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than \$500, or imprisoned for not more than six months, or both, in the discretion of the court. (7 U.S.C. 270.)

Sec. 31. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act other than those services for which fees are authorized pursuant to section 10. Such appropriated funds may be used by the Secretary to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the provisions of this Act. (7 U.S.C. 271.)

Sec. 32. That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (7 U.S.C. 272.)

Sec. 33. That the right to amend, alter, or repeal this Act is hereby expressly reserved. (7 U.S.C. 273.)



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